

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 2, 2020

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00128

For approval and certification of electric
facilities: Loudoun-Ox 230 kV Transmission Line
Partial Rebuild Projects

FINAL ORDER

On August 13, 2019, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application for approval and certification to construct and operate electric transmission facilities in the Counties of Loudoun, Prince William, and Fairfax, Virginia, pursuant to Code § 56-46.1 and the Utility Facilities Act, Code § 56-265.1 *et seq.* ("Application"). Specifically, Dominion proposes to rebuild, entirely within an existing right-of-way or on Company-owned property, portions of the Company's existing 230 kilovolt ("kV") transmission Lines #2173, #295, #265, #200, #2051, #2063, #266, and #2008, and to perform associated work on facilities in the Company's Loudoun, Bull Run, Mosby, Sully, and Clifton Substations (collectively, "Rebuild Project").¹

Dominion states that the Rebuild Project is necessary to maintain the structural integrity and reliability of its transmission system in compliance with mandatory North American Electric Reliability Corporation Reliability Standards.² Further, the Company states that the Rebuild Project will replace aging infrastructure that is at the end of its service life.³

¹ Ex. 2 (Application) at 2.

² *Id.*

³ *Id.* at 4.

The Company states that the expected in-service date for the Rebuild Project is December 31, 2024.⁴ The estimated cost of the Rebuild Project is approximately \$67.5 million, which includes an estimated \$59.0 million cost for transmission-related work and approximately \$8.5 million for substation-related work (2019 dollars).⁵

On September 17, 2019, the Commission issued an Order for Notice and Hearing ("Procedural Order"), which, among other things, docketed the proceeding; directed the Company to provide notice of its Application to the public; provided interested persons the opportunity to comment on the Application or to participate as a respondent in this proceeding; scheduled public hearings for January 29, 2020, and April 22, 2020; and directed the Commission's Staff ("Staff") to investigate the Application and to file testimony containing Staff's findings and recommendations.

No written public comments or notices of participation were filed.

As also directed in the Procedural Order, Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Rebuild Project by the appropriate agencies and to provide a report on the review. On October 24, 2019, DEQ filed its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ. The DEQ Report provides general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. Specifically, the DEQ Report contains the following Summary of Recommendations regarding the Rebuild Project. According to the DEQ Report, the Company should:

- Conduct an on-site delineation of all wetlands and stream crossings within the project area with verification by the U.S. Army Corps of Engineers,

⁴ *Id.* at 5.

⁵ *Id.*

using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.

- Follow DEQ's recommendations regarding air quality protection, as applicable.
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable and follow DEQ's recommendations regarding the evaluation of waste sites.
- Coordinate with the Department of Conservation and Recreation's ("DCR") Division of Natural Heritage regarding its recommendations to protect natural heritage resources, the Rusty patched bumble bee, karst resources, and the aquatic ecosystem; develop and implement an invasive species management plan; plant native species; and obtain an update on natural heritage information.
- Coordinate with the Department of Game and Inland Fisheries ("DGIF") regarding its recommendations to protect wildlife resources.
- Coordinate with the Virginia Outdoors Foundation regarding its recommendation for additional consultation as necessary.
- Coordinate with the Department of Historic Resources regarding its recommendations to protect historic and archaeological resources.
- Coordinate with the Virginia Department of Health regarding its recommendations to protect water supplies.
- Follow the principles and practices of pollution prevention to the maximum extent practicable.
- Limit the use of pesticides and herbicides to the extent practicable.
- Coordinate with Fairfax and Loudoun counties regarding their recommendations for additional coordination and protection of resources.⁶

On February 28, 2020, Staff filed testimony along with an attached report ("Staff Report") summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion has reasonably demonstrated the need for the proposed project and that the project

⁶ Ex. 7 (DEQ Report) at 7-8.

is necessary to continue providing reliable electric transmission service.⁷ Staff, therefore, did not oppose the issuance of the certificates of public convenience and necessity ("CPCNs") requested in the Company's Application.⁸

On March 20, 2020, Dominion filed its rebuttal testimony. In its rebuttal, the Company did not object to most of the recommendations included in the DEQ Report but requested that the Commission reject four of DEQ's recommendations. Dominion also offered clarifications for three aspects of the DEQ Report.⁹

On January 29, 2020, a public witness hearing was held in Chantilly, Virginia. One public witness appeared to testify.¹⁰ On March 31, 2020, upon consideration of the ongoing public health emergency relating to the spread of the novel coronavirus and representations made by the case participants that there were no disputed issues that necessitated an evidentiary hearing, the Hearing Examiner issued a Ruling canceling the April 22, 2020 hearing. On April 8, 2020, Dominion and Staff (collectively, "Stipulating Participants") filed a Proposed Stipulation enumerating the documents and evidence it recommended be entered into the evidentiary record for consideration in this case.¹¹ The Stipulating Participants also recommended that the record for this proceeding close without the necessity of a hearing.¹²

On May 1, 2020, the Hearing Examiner issued his report ("Report"). In the Report, the Hearing Examiner recommended that the Commission authorize the Company to construct and

⁷ Ex. 8 (Cizenski Direct) at Staff Report, p. 21.

⁸ *Id.*

⁹ Ex. 10 (Carr Rebuttal) at 7-10.

¹⁰ *See* Tr. 7-13.

¹¹ Ex. 12 (Proposed Stipulation) at 1-3.

¹² *Id.* at 4.

operate the Rebuild Project, subject to certain findings and conditions included in the Report, and issue appropriate CPCNs for the Rebuild Project.¹³ No comments opposing the findings and recommendations set forth in the Report were filed.¹⁴

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Company construct the Rebuild Project. The Commission finds that CPCNs authorizing the Rebuild Project should be issued subject to certain findings and conditions contained herein.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code.

Section 56-265.2 A 1 of the Code provides that "it shall be unlawful for any public utility to construct . . . facilities for use in public utility service . . . without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any

¹³ Report at 31.

¹⁴ Two clarifications were made in the comments, however. First, it was noted that certain references in the Report to Line #228 should have instead been to Line #266. *See* Dominion's Comments on Report at 2. Second, Dominion stated it believed it has already complied with the Hearing Examiner's recommendation to provide the public witness who testified at the January 29, 2020 hearing a point of contact with the Company. However, the Company agreed to provide the public witness additional information, should any further information be requested. *Id.* at 2-3.

county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted
 Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . . and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

The Code further requires that the Commission consider existing right of way ("ROW") easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Public Convenience and Necessity

Dominion represents that the Rebuild Project is necessary to replace aging infrastructure that is at the end of its service life to comply with the Company's mandatory transmission planning criteria, thereby enabling the Company to maintain the overall long-term reliability of its transmission system.¹⁵ Based on information provided by the Company, including the outage projections if the line is not in service and evidence showing deterioration of the structures, Staff

¹⁵ See Ex. 2 (Application) at 4.

agreed with the Company that the Project is needed to ensure reliable service.¹⁶ The Commission finds that the Company's proposed Rebuild Project is needed to replace aging infrastructure, thereby enabling the Company to maintain the overall long-term reliability of its transmission system.

Economic Development

The Commission finds that the evidence in this case demonstrates that the Rebuild Project will support reliable power throughout Virginia, thereby facilitating economic growth in the Commonwealth by continuing to provide reliable electric service.¹⁷

Rights-of-Way and Routing

Dominion has adequately considered usage of existing ROW. The Rebuild Project, as proposed, would be constructed on existing ROW or on Company-owned property, with no additional ROW required.¹⁸

Scenic Assets and Historic Districts

As noted above, the Rebuild Project would be constructed on existing ROW already owned and maintained by Dominion. The Commission finds that this will minimize adverse impacts on scenic assets and historic districts in the Commonwealth of Virginia as required by § 56-46.1 B of the Code.¹⁹

¹⁶ Ex. 8 (Cizenski Direct) at Staff Report, pp. 9-14, 21.

¹⁷ *See id.* at 20.

¹⁸ *See* Ex. 2 (Application) at Appendix, p. 112. As such, no alternative routes were proposed for the Rebuild Project. *Id.*

¹⁹ *See* Ex. 2 (Application) at Appendix, pp. 249-302; Ex. 8 (Cizenski Direct) at Staff Report, pp. 19-20.

Environmental Impact

Pursuant to § 56-46.1 A and B of the Code, the Commission is required to consider the Rebuild Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impacts. The statute further provides that the Commission shall receive and give consideration to all reports that relate to the Rebuild Project by state agencies concerned with environmental protection.

The Commission finds that there are no adverse environmental impacts that would prevent the construction or operation of the Rebuild Project. This finding is supported by the DEQ Report, as nothing therein suggests that the Rebuild Project should not be constructed.

There are, however, recommendations included in the DEQ Report for the Commission's consideration.²⁰ The Company filed a response opposing four of these recommendations.

First, Dominion requests that the Commission reject the recommendation from DCR related to avoiding impacts to certain natural heritage resources, specifically the recommendation to avoid impacts to the Stiff goldenrod, Earleaf False foxglove, and Purple milkweed plants.²¹ The Company states that none of these plants have state or federal status requiring Dominion to avoid impacts to them and that the Company does not believe any proposed structures will be constructed within the designated areas identified by DCR.²² Further, the Company agrees to provide its construction team with information regarding these resources of concern prior to commencing construction activity and to coordinate with DCR should the resources be found

²⁰ See Ex. 7 (DEQ Report) at 7-8. Dominion should comply with all uncontested recommendations included in the DEQ Report. However, to the extent Dominion and DEQ, or other appropriate state agency or municipality, reach agreement that certain recommendations included in the DEQ Report are not necessary or have been adequately addressed elsewhere, we find that Dominion need not comply with those specific recommendations. See Ex. 10 (Carr Rebuttal) at 7-10.

²¹ See *id.* at 20-22, DCR Memorandum Figures 1-2; Ex. 10 (Carr Rebuttal) at 3-4.

²² Ex. 10 (Carr Rebuttal) at 3.

within the project area.²³ The Commission finds that the Company shall educate its construction personnel regarding the resources of concern and shall coordinate with DCR should the species be found within the Rebuild Project area.

Second, Dominion requests that the Commission reject DCR's recommendation that the Company develop and implement an invasive species management plan.²⁴ Dominion asserts that it "already has a robust Integrated Vegetation Management Plan in place that utilizes mechanical, chemical, and cultural methods for controlling vegetation, including invasive species."²⁵ It therefore states that the development and implementation of a separate invasive species plan is unnecessary.²⁶ The Commission finds that the invasive species plan recommended by DCR is duplicative of the Company's Integrated Vegetation Management Plan and therefore is unnecessary.

Third, the Company recommends rejection of DGIF's recommendation to conduct significant tree removal and ground clearing activities outside of the primary songbird nesting season.²⁷ Dominion states that it does not expect any ground clearing activities to be "significant."²⁸ However, the Company agrees to survey the relevant area for songbird nesting colonies if any significant clearing occurs during nesting season and will coordinate with DGIF if any colonies are found.²⁹ We agree with the Hearing Examiner that the Company shall be

²³ *Id.* at 3-4.

²⁴ Ex. 7 (DEQ Report) at 22; Ex. 10 (Carr Rebuttal) at 4-5.

²⁵ Ex. 10 (Carr Rebuttal) at 4.

²⁶ *Id.* at 5.

²⁷ Ex. 7 (DEQ Report) at 24; Ex. 10 (Carr Rebuttal) at 5-6.

²⁸ Ex. 10 (Carr Rebuttal) at 5.

²⁹ *Id.* at 5-6.

required to survey the Rebuild Project area for songbird nesting colonies if any significant clearing occurs during nesting season and coordinate with DGIF to create appropriate construction restrictions if any colonies are found.³⁰

Fourth, Dominion objects in part to the recommendation that it coordinate with Fairfax and Loudoun counties regarding their recommendations for additional coordination and protection of resources. Specifically, Dominion requests that the Commission reject Fairfax County's recommendation that the Company coordinate with the Fairfax County Park Authority's ("FCPA") Archaeology and Collection Branch in the development and review of an environmental impact statement ("EIS") because the Company states that it does not anticipate that an EIS or other environmental assessment will be required for the Rebuild Project.³¹ Dominion states, however, that it intends to continue to coordinate with the FCPA during the federal wetland permitting process.³² We concur with the Hearing Examiner that the Company should continue coordinating with the FCPA with respect to historical properties and National Historic Preservation Act compliance during the federal wetland permitting process.³³

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate the Rebuild Project as proposed in its Application, subject to the findings and conditions imposed herein.

(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's request for approval of the necessary CPCNs to construct and operate the Rebuild Project is granted as provided for herein, subject to the requirements set forth herein.

³⁰ Report at 30, 31.

³¹ Ex. 7 (DEQ Report) at 31-32; Ex. 10 (Carr Rebuttal) at 6-7.

³² Ex. 10 (Carr Rebuttal) at 7.

³³ See Report at 30, 31.

(3) Pursuant to the Utility Facilities Act, § 56-265.1 *et seq.* of the Code, the Commission issues the following CPCNs to Dominion:

Certificate No. ET-91ad, which authorizes Virginia Electric and Power Company, under the Utility Facilities Act, to operate certificated facilities in Loudoun County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2019-00128, cancels Certificate No. ET-91ac, issued to Virginia Electric and Power Company in Case No. PUR-2019-00191 on May 22, 2020.

Certificate No. ET-105af, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Prince William County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2019-00128, cancels Certificate No. ET-105ae, issued to Virginia Electric and Power Company in Case No. PUR-2017-00078 on February 5, 2018.

Certificate No. ET-79rr, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in the Counties of Arlington and Fairfax and the City of Alexandria, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2019-00128, cancels Certificate No. ET-79qq, issued to Virginia Electric and Power Company in Case No. PUR-2019-00040 on September 27, 2019.

(4) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation three copies of an appropriate map for each Certificate No. that shows the routing of the transmission lines approved herein.

(5) Upon receiving the maps directed in Ordering Paragraph (4), the Commission's Division of Public Utility Regulation forthwith shall provide the Company copies of the CPCNs issued in Ordering Paragraph (3) with the maps attached.

(6) The Rebuild Project approved herein must be constructed and in service by December 31, 2024. No later than 90 days before the in-service date approved herein, except for

good cause shown, the Company is granted leave to apply, and to provide the basis, for any extension request.

(7) This matter is dismissed.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.